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ABSTRACT

Background materials and guidelines for secondary students and educators in Utah who wish to participate in the state-wide mock trial competition are provided. Many parts of the publication can be used by educators in other states who are using mock trials in their classrooms or who are developing a state-wide mock trial competition. The manual begins with an introductory letter explaining the overall competition program and an official team entry form. The rules of competition and the Utah mock trial procedures are then explained. Simplified rules of evidence to be used in the competition are explained. General guidelines for all participants and specific guidelines for attorney-coaches, teachers, and those acting as witnesses, attorneys, judges, and clerk/bailiff are presented. Also included is a timing sheet, a performance rating and comment form, and a statement of facts for the trial of Vincent Taylor v. Alta View Hospital for Women, Raymond Miller, M.D., and Dorothy Dillon, R.N. (RM)

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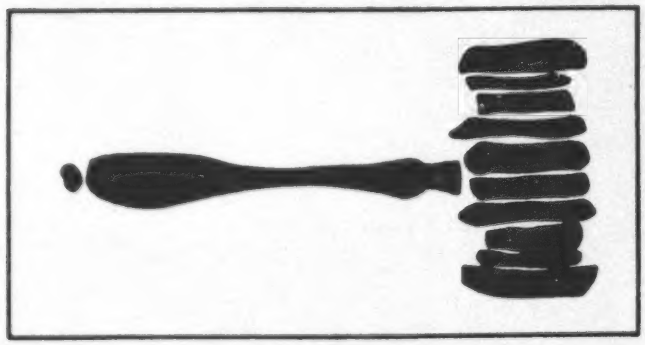
Spring 1983

UTAH

MOCK TRIAL COMPETITION



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Nancy N. Mathews
Director

UTAH LAW RELATED EDUCATION PROJECT

To: Utah Mock Trial Participants

From: Nancy N. Mathews, Director Utah Law-Related and Citizenship Education Projects

and

Linda Oswald, Director Utah Statewide Clearinghouse on Citizenship Education

Re: 1983 MOCK TRIAL COMPETITION

The Utah Law-Related and Citizenship Education Projects, the Utah Statewide Clearinghouse on Citizenship Education, the Utah State Bar's Committee on Law-Related Education and the Utah Commission on Education for Law and Citizenship are pleased to co-sponsor the Fourth Annual Statewide Mock Trial Competition to be held from April 4-April 28, 1983.

Please note the following important dates:

March 1, 1983.....Training session for all teacher-sponsors (Mandatory attendance)

March 18, 1983.....Deadline for official team entry form (listing names of team members)

March 22, 1983.....Assignment of plaintiff/defendant sides for first play-off round.

April 4-15, 1983.....Play-off rounds

*April 19-20, 1983.....High school quarter-final rounds

*April 21-22, 1983 Junior high/middle school semi-final rounds

*April 25-26, 1983.....High school semi-final rounds

April 27, 1983.....Junior high/middle school championship round

April 28, 1983.....High school championship round

(*Dates may vary slightly depending upon the availability of courtrooms)

Again this year each team will participate in at least two play-off rounds before the elimination process begins. Because participating schools come from areas throughout the state, each team should expect to travel for one of the play-off rounds. It is the responsibility of the teacher sponsors to work out permission and logistics for travel.

UTAH STATE OFFICE OF EDUCATION 250 East Fifth South Salt Lake City, Utah 84111 801-533-5891

Judging on performance will be done by a panel of three who will use the Performance Rating Sheet. In an attempt to improve the fairness of judging, several changes are being made in this year's contest: (1) Win-loss records (and in some cases points) will determine which teams advance in the tournament. (2) In addition, judges will score teams' performances differently than last year. Please see section on Advancement (p. 7-8) and Judging (p. 27-8) for more details.

Because of changes made in this year's rules and regulations, it is extremely important that everyone read this entire handbook to be familiar with its contents. Also please note important dates as listed. For further explanation, please contact the Project staff at any time during the competition.

Teachers will be contacted by March 22, 1983 regarding which side their team will portray in the first play-off rounds. Attorney-coaches will be assigned to schools six weeks prior to the beginning of the tournament.

Above all else, we hope that the benefits of participating in this year's tournament will go far beyond the rewards associated with competing against one's peers and perhaps winning a round or two. Let's try to discourage any "win-at-all-costs" attitude and stress cooperative planning and teamwork among participants. Let's not lose sight of the goals of this event:

- To further understanding of the law, court procedures and our legal system;
- To help increase proficiency in basic life skills such as listening, speaking, reading and reasoning;
- To promote better communication and cooperation between the school community --teachers and students--and the legal profession; and
- To heighten appreciation for academic studies as well as career consciousness for law-related professionals.

Good luck in the tournament! May this be an intellectually stimulating and personally rewarding experience for all participants.

/alt

1983 UTAH MOCK TRIAL COMPETITION

OFFICIAL TEAM ENTRY FORM

We will participate in this year's mock trial competition for public and non-public junior (7th, 8th and 9th grades) and senior high schools (10th, 11th and 12th grades) located in Utah.

. Teacher Sponsor(s)_____

. Name of School_____District:_____

. Address:_____Zip:_____

Times you can be reached:

. School Phone:_____ _____

. Home Phone:_____ _____

. Name of Student Team Members: (Please spell correctly! Lists will be used for certificates and daily sheets.)

Attorneys:	Witnesses:
1)_____	1) Vincent Taylor_____
2)_____	2) Harriet Dawson_____
3)_____	3) Sheila Gray_____
4)_____	4) Dorothy Dillon_____
Bailiff:	5) Raymond Miller_____
1)_____	6) Donna Winters_____

I/we, the undersigned, take responsibility for the mock trial team from the junior/senior high school listed above. Each of the students has taken or is taking a law-related class.

_____ _____

Teacher-Coach (date: / /)

Please return completed entries to: Nancy N. Mathews, Director
Utah Law-Related and Citizenship Education Projects
Utah State Office of Education
250 East 5th South
Salt Lake City, Utah 84111

Date due: March 18, 1983

MOCK TRIAL RULES OF COMPETITION

The Annual Mock Trial Competition is governed by the rules set forth below. These rules are designed to ensure excellence in presentation and fairness in judging all competition trials.

A. TEAM PRESENTATIONS

1. The Statement of Facts and any additional stipulations may not be disputed at trial. These case materials comprise the sole source of information for testimony. Deviating from the facts in the packet is strictly prohibited.

2. Each witness is bound by the facts in the given witness statement. All participants agree that the witness statements are signed and sworn affidavits.

3. If a witness testifies in contradiction of a fact in the witness statement, the opposition must show this on cross-examination through correct use of the affidavit for impeachment. This procedure is spelled out in the Rules of Evidence.

4. If a witness invents an answer which is likely to affect the outcome of the trial, the opposition may object and request a bench conference. The judge will decide whether to allow the testimony. The judge may consider such inventions of facts in making the decision concerning the best team presentation.

5. All participants are expected to display proper courtroom decorum and good sportsmanlike conduct. The decisions of the judge with regard to rules challenges and all other decisions are final.

6. Students may read other cases, materials, articles, etc., in preparation for the mock trial. However, they may only cite the materials included in the packet or supplied by the Project in the later rounds. They may introduce into evidence those documents given in the official mock trial packet and other physical evidence that corresponds to the descriptions of items given in the case materials.

7. The trial proceedings are governed by the Mock Trial Simplified Rules of Evidence. Other more complex rules may not be raised in the trial.

8. During the actual trial, instructors and all other observers may not talk to, signal, or otherwise communicate with or coach their teams.

9. Tape recording or videotaping of trials is prohibited (except by Project staff).

10. Teams must prepare both plaintiff's and defendant's cases and should be ready to present either side. Teams will be notified by March 22, 1983, which side they will have to present in the first playoff round of the competition. Teams will reverse roles in the second playoff round. A flip of the coin by the Project staff will determine what side teams will play in the future rounds. Teams will be informed of which side they will be presenting at least three days before any round.

11. Witnesses are not permitted to use notes in testifying during the trial.

12. Attorneys may use notes in the presentation of their material.

13. The following time categories will be enforced at the trial:

Opening statements	*5 minutes
Direct examination	9 minutes per witness or 27 minutes total
Cross-examination	7 minutes per witness or 21 minutes total
Closing statements	*7

*Time allotted for opening and closing statements may be altered but cannot exceed a total of 12 minutes.

Time in each category may be allotted among team attorneys as they choose, but overall time limits for each category must be observed. Violating time limits will reduce team's total score.

14. Instructions from Project staff and judges will be given to the clerk/bailiff prior to each trial.

15. The clerk/bailiff will keep track of times on timing sheets. (See enclosed.) At the end of the trial, he/she will tell the judges whether either team went more than one-half minute over time in any of the categories. (See Guidelines for Clerk - Bailiffs, p. 30.)

16. Order of closing statements: first - plaintiff; second - defendant, rebuttal by plaintiff is permitted. Time must be allotted by plaintiff to rebut defendant's closing statement.

17. Neither team may introduce surprise witnesses.

18. Teams are expected to be present in the courtroom 15 minutes before the starting time of the trial.

19. The starting time of any trial will not be delayed for longer than ten minutes. Incomplete teams will have to begin without their other members, or with alternates. Teams without a sufficient number of participants to start the trial will forfeit the match.

B. TEAM COMPOSITION

1. Teams will consist of no more than four or less than three attorneys.

   a. If four are used, one attorney will present opening and closing statements. Each of the other three will present direct and cross-examination of one witness.

   b. If three attorneys are used, each will present direct and cross-examination of one witness. One will make the opening and another the closing statements.

2. Each team will consist of two witnesses for each side, plus the plaintiff or defendant. Names of characters may be changed to adjust to the sex of the student playing the role. These name changes should be reported prior to the start of the trial.

3. Each team will also consist of one clerk/bailiff.

4. A team may use its members to play different roles in different rounds.

C. JUDGING

1. Judging of each round will be done by a panel of three. Attorneys will play the roles of the presiding judge and one panel judge. The third panel judge will be a community representative.

2. Each judge will receive the Mock Trial Handbook prior to the trial they are judging and will be expected to read the case and rules thoroughly.

3. Each judge will score teams on their performance using the Performance Rating Sheet as found in the handbook. (See Guidelines for Those Acting as Judges (p. 27-8) and Advancement (p. 7-8) for details.)

4. In addition to announcing the winner on performance, the presiding judge will also render a legal decision. It is possible for a team to win on performance and lose on the merits of the case, or vice versa. However, teams advance on performance only.

5. The decisions of the judges are final.

D. TOURNAMENT ADVANCEMENT

1. Each team will participate in a minimum of two play-off trials.

2. Judging will be done by a panel of three. Each panel member will score the teams' performance using the Performance Rating Sheet as found on page 61. (Please see #1-g and h, p. 27-8, under Duties of Panel Judges for further explanation.)

3. After the play-off rounds, teams with the best win/loss records will continue into the next round.

   a. High schools will have a quarter-final round consisting of eight teams. In the event there are more than eight teams with winning

records, point totals as scored by the panel judges will be used to select these eight teams. The four winning teams will continue into the semi-finals with the winners of this round competing in the high school division finals.

b. Junior high/middle schools will have a semi-final round consisting of the four top teams (based on win/loss records unless point totals are necessary as explained above).

The winners of this round will then compete in the junior high/middle school division finals.

E. MISCELLANEOUS RULES

1. Dress of participants

a. No costumes for witnesses will be allowed.

b. Coat and tie for boys and dresses for girls are required.

2. All team members either must have taken or are taking a law-related class or unit.

3. Divisions

a. Division I - High school students (10th, 11th and 12th grades)

b. Division II - Junior high/middle school students (7th, 8th and 9th grades)

4. Regulations on each participating school

a. Each sponsoring teacher may enter one team only in the competition.

b. Only two teams per school will be allowed.

c. If there are more than two teams per school, there must be an elimination tournament held within the school. Such a tournament will be solely the responsibility of the school.

d. Each school must submit an official entry form for each team by the date noted on the entry form.

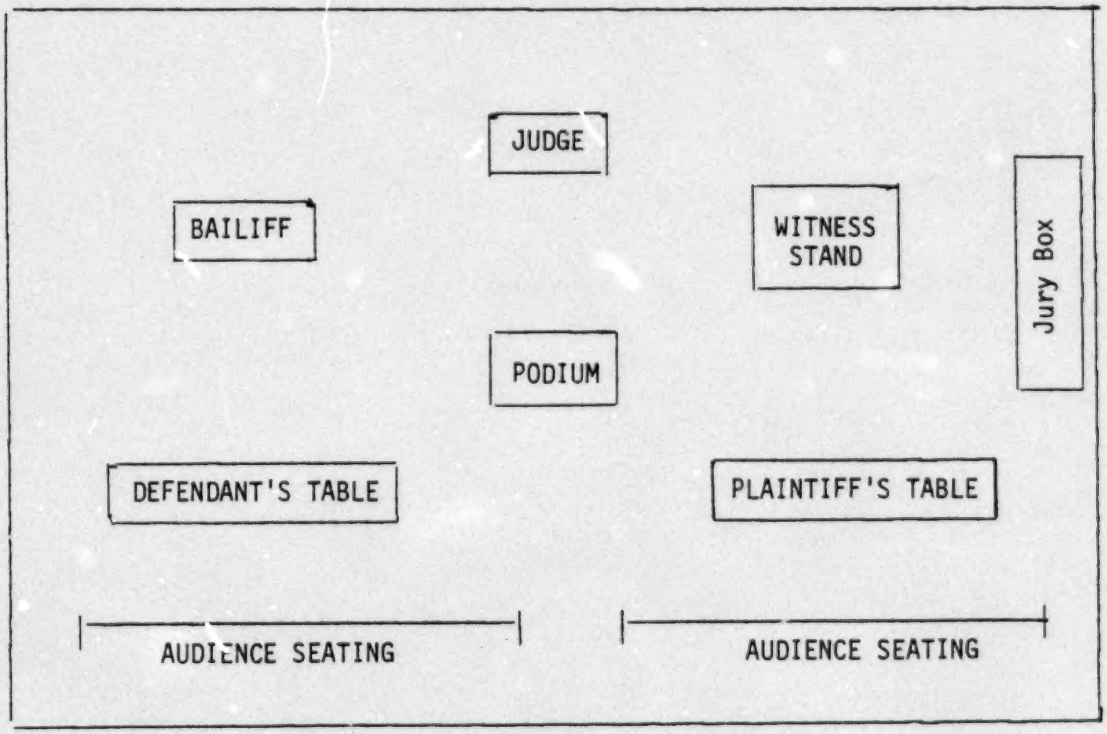
e. Each sponsor must contact proper authorities regarding transportation to trial sites, release of students from class, substitutes, etc.

f. Salt Lake Valley teams should be prepared to travel to a site outside the Salt Lake area once during the play-off rounds. Teams from other areas of the state will have at least one play-off round in their vicinity. Semi-finals and finals will be held in the Salt Lake area.

UTAH MOCK TRIAL PROCEDURES

Before participating in a mock trial, it is important to be familiar with the physical setting of the courtroom, as well as with the events that generally take place during the exercise and the order in which they occur. This section outlines the usual steps in a "bench" trial--that is, a trial without a jury.

A. COURTROOM LAYOUT



B. PARTICIPANTS

1. The Judge
2. The Attorneys

Plaintiff - Defendant (Civil Case)

3. The Witnesses

   Plaintiff - Defendant (Civil Case)

C. STEPS IN MOCK TRIAL

1. The Opening of the Court

   The clerk/bailiff will call the Court to order by saying, "All rise. The_____Court is now in session. The Honorable Judge_____presiding."

   When the judge enters, all participants should remain standing until the judge is seated.

   The case will be announced...i.e., "The Court will now hear the case of TAYLOR vs. ALTA VIEW HOSPITAL FOR WOMEN.

   The judge will then ask the attorneys for each side if they are ready.

2. Opening Statements

   a. Plaintiff

      After introducing himself/herself and colleagues to the judge, the plaintiff's attorney in a civil case summarizes the evidence which will be presented to prove the case.

   b. Defendant

      After introducing himself/herself and colleagues to the judge, the defendant's attorney in a civil case summarizes the evidence for the Court which will be presented to rebut the case the prosecution has made.

3. Direct Examination by Plaintiff

   The plaintiff's attorneys conduct direct examination (questioning) of each of its own witnesses. At this time, testimony and other evidence to prove the plaintiff's case will be presented. The purpose of direct examination is to allow the witness to narrate the facts in support of the case.

   Note: The attorneys for both sides, on both direct and cross-examination, should remember that their only function is to ask questions; attorneys themselves may not testify or give evidence, and they must avoid phrasing questions in a way that might violate this rule.

4. Cross-Examination by the Defendant's Attorneys

After the attorney for the plaintiff has completed questioning each witness, the judge then allows the other party (i.e., defense attorney) to cross-examine the witness. The cross-examiner seeks to clarify or cast doubt upon the testimony of opposing witnesses. Inconsistency in stories, bias, and other damaging facts may be pointed out to the judge through cross-examination.

5. Direct Examination by the Defendant's Attorneys

Direct examination of each defense witness follows the same pattern as the above which describes the process for plaintiff's witnesses.

6. Cross-Examination by the Plaintiff's Attorneys

Cross-examination of each defense witness follows the same pattern as the step above for cross-examination by the defense.

7. Closing Arguments (Attorneys)

a. Plaintiff

A closing statement is a review of the evidence presented. It should indicate how the evidence has satisfied the elements of the claim, point out the law applicable to the case, and ask for a finding (verdict).

b. Defense

The closing statement for the defense is essentially the same as for the plaintiff. Counsel for the defense reviews the evidence as presented, indicates how the evidence does not satisfy the elements of the claim, stresses the facts favorable to the defense and asks for a finding (verdict) of judgment for the defense.

D. THE JUDGE'S ROLE AND DECISION

The judge is the person who presides over the trial to ensure that the parties' rights are protected, and that the attorneys follow the rules of evidence and trial procedure. In trials held without a jury, the judge also has the function of determining the facts of the case and rendering a judgment.

SIMPLIFIED RULES OF EVIDENCE

In American trials, complicated rules are used to regulate the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that both parties receive a fair hearing and to exclude any evidence deemed irrelevant, incompetent, untrustworthy, or unduly prejudicial. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded from the trial.

Formal rules of evidence are quite complicated and differ depending on the court where the trial occurs. For purposes of this mock trial competition, the rules of evidence have been modified and simplified below.

A. Witness Examination

1. Direct examination (attorneys call and question their own witnesses)

   a. Form of questions: Witnesses may not be asked leading questions by the attorney who calls them. A leading question is one that suggests to the witness the answer desired by the examiner, and often suggests a "yes" or "no" answer. Direct questions generally are phrased to evoke a set of facts from the witness.

      Example of a direct question: "Mr. Taylor, what is your nursing background?"

      Example of a leading question: "Mrs. Dillon, did Mr. Taylor ever come to work in sloppy clothes?"

   b. Narration: While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific information. The questions must not be so broad that the witness is allowed to wander or "narrate" a whole story. Narrative questions are objectionable.

      Example of a narrative question: "Ms. Gray, what happened when Mr. Taylor came to work at Alta View?"

      Narrative answers: At times, a direct question may be appropriate, but the witness' answer may go beyond the facts for which the question asked. Such answers are subject to objection on the grounds of narration.

   c. Scope of witness examination: Direct examination may cover all facts relevant to the case of which the witness has first-hand knowledge. Any factual areas examined on direct examination may be subject to cross-examination.

d. Character: For mock trial purposes, evidence about the character of a party may not be introduced unless the person's character is an issue in the case. For example, whether one spouse has been unfaithful to another is a relevant issue in a civil trial for divorce, but is not an issue in a criminal trial for larceny. Similarly, a person's violent temper may be relevant in a criminal trial for assault, but it is not an issue in a civil trial for breach of contract.

e. Refreshing Recollection: If a witness is unable to recall a statement made in the affidavit, or if the witness contradicts the affidavit, the attorney on direct may seek to introduce into evidence that portion of the affidavit that will help the witness to remember. (See Part B.5 on introduction of evidence).

2. Cross-examination (questioning of the other side's witnesses)

a. Forms of questions: An attorney may ask leading questions when cross-examining the opponent's witnesses. Questions tending to evoke a narrative answer should be avoided (these usually begin with "how," "why" or "explain").

Examples of a leading question: "Dr. Miller, isn't it true that you had reason to suspect that Nurse Dillon was treating Mr. Taylor unfairly?"

b. Scope of witness examination: Attorneys may only ask questions that relate to matters brought out by the other side on direct examination, or to matters relating to the credibility of the witness. This includes facts and statements made by the witness for the opposing party. Note that many judges allow a broad interpretation of this rule.

Example: If the plaintiff in a car accident case never mentions damages to the car, then the defense cannot ask questions on cross-examination about the repair costs.

c. Impeachment: On cross-examination, the attorney may want to show the court that the witness should not be believed. This is called impeaching the witness. It may be done by asking questions about prior conduct that makes the witness' credibility (truth-telling ability) doubtful. Other times, it may be done by asking about evidence of certain types of criminal convictions. Impeachment may also be done by introducing the witness' affidavit, and asking the witness whether he or she has contradicted something which was stated in the affidavit.

Example (Prior Conduct): "Is it true that you beat your nephew when he was six years old and broke his arm?"

Example (Past Conviction): "Is it true that you've been convicted of assault?"

(NOTE: These types of questions may only be asked when the questioning attorney has information that indicates that the conduct actually happened.)

3. Re-direct examination

There will be no re-direct examination or recall of witnesses.

B. Additional Rules of Evidence

1. Hearsay

Any evidence of a statement made by someone who is not present in the court which is offered to prove the truth of a fact, a piece of evidence or any witness' testimony is hearsay and not permitted.

Example: Witness Winters says, "Some of the other patients told me that Mr. Taylor was clumsy and not very gentle with them."

Though hearsay is not usually allowed at a trial, a judge may sometimes allow it if:

a. it was said by a party in the case and contains evidence which goes against his side (e.g., in a murder case, the defendant told someone he committed the murder). This is sometimes called the "Admission against Interest" Exception; or

b. a person's state of mind is an important part of the case and the hearsay consists of evidence of what someone said which described that particular person's state of mind (sometimes called "State of Mind" Exception).

2. Opinions of Witnesses

As a general rule, witnesses may not give opinion. Certain witnesses who have special knowledge or qualifications may be qualified as "experts." An expert must be qualified by the attorney for the party for which the expert is testifying; this means that before an expert can be asked an expert opinion, the questioning attorney must bring out the expert's qualifications and experience. The judge must approve this.

To properly qualify a doctor (or social worker) you would have to ask questions like these:

Q: What is your name and address?
Q: What is your business or profession?
Q: Are you licensed to practice in the State of Utah?
Q: When were you licensed?
Q: Of what medical school are you a graduate and what year?
Q: Where did you intern?
Q: Following your internship did you enter private practice?
Q: Have you had any other advanced medical training?
Q: Are you now in private practice and where?
Q: Are you associated with any hospitals?
Q: To what professional organizations do you belong?

Your Honor, I would like this witness to be qualified as an expert.

The judge will then ask the other side if there are any objections and they may voir dire (question) the witness on his or her qualifications.

All witnesses may give opinions on what they saw and heard at a given time, if such opinions are relevant to the facts in issue and helpful in explaining their story. All witnesses may offer opinions based on the common experience of laypersons in the community and of which the witnesses have first-hand knowledge.

Examples: "I think Taylor was clumsy." (allowed)
"I think Taylor was not qualified to be a nurse." (not allowed unless made by nurse supervisor)

No witness may give an opinion about how the case should be decided. Example: "Ms. Gray, would you say that Vince Taylor was made a victim of sex discrimination?" This is called the "ultimate issue" question.

3. Lack of Personal Knowledge: A witness may not testify to any matter of which the witness has no personal knowledge.

Example: If Nurse Gray never observed Mrs. Dillon speak to Mr. Taylor, she could not say, "Mrs. Dillon always spoke to Vince in a rude and abrupt manner."

4. Relevance of Evidence

Generally, only relevant (meaningful to the issue in this trial) testimony and evidence may be presented. This means that the only physical evidence and testimony allowed is that which tends to make a fact which is important to the case more or less probable than the fact would be without the evidence. However, if the relevant evidence is unfairly prejudicial, may confuse the issues, or is a waste of time, it may be excluded by the court (judge). This may include testimony, pieces of evidence and demonstrations that have no direct bearing on the issues of the case, or have nothing to do with making the issues clearer.

Example: The defense asks, "Mr. Taylor, how did you like working in the pediatrics unit?" This is irrelevant unless Taylor's satisfaction with that assignment somehow relates.

5. Introduction of physical evidence

There is a special procedure for introducing physical evidence during a trial. The physical evidence must be relevant to the case and the attorney must be prepared to defend its use on that basis. Below are the basic steps to use when introducing a physical object or document for identification and/or use as evidence.

a. "Your Honor, I ask that this personnel file be marked for identification as Plaintiff's Exhibit A." (Show document and hand it to clerk/bailiff for marking.)

b. (Show personnel file to opposing counsel, who may make an objection to the offering at this time.)

c. (Show personnel file to witness.) "Mr. Taylor, do you recognize this document which is marked as Plaintiff's Exhibit A for identification?" (The witness should say yes and identify the document.)

At this point, the attorney may proceed to ask the witness a series of questions about Exhibit A.

d. If the attorney wishes to place the document into evidence, say, "Your Honor, I offer this personnel file for admission into evidence as Plaintiff's Exhibit A, and ask the court to so admit it."

e. Get ruling from the court (judge) on admission and hand the document to the judge.

C. Objections

An attorney can object any time he or she thinks the opposing attorneys have violated the rules of evidence. The attorney wishing to object should stand up and do so at the time of the violation. When an objection is made, the judge will ask the reason for the objection. Then the judge will turn to the attorney who asked the question, and that attorney usually will have a chance to explain why the objection should not be accepted ("sustained") by the judge. The judge will then decide whether the question or answer must be discarded, because it has violated a rule of evidence ("objection sustained"), or whether to allow the question or answer to remain on the trial record ("objection overruled").

1. Following are standard objections:

a. Irrelevant evidence: "I object, Your Honor. This testimony is irrelevant to the facts of this case."

b. Leading questions: "Objection. Counsel is leading the witness." (Remember, this is only objectionable when done on direct examination.)

c. Improper character testimony:

(1) "Objection. The witness' character or reputation has not been put in issue."

(2) "Objection. Only the witness' reputation/character for truthfulness is at issue here."

d. Beyond the scope of direct examination: "Objection. Counsel is asking the witness about matters that did not come up in direct examination."

e. Hearsay: "Objection. Counsel's question/the witness' answer is based on hearsay." (If the witness makes a hearsay statement, the attorney should also say, "and I ask that the statement be stricken from the record.")

f. Opinion: "Objection. Counsel is asking the witness to give an opinion."

g. Lack of personal knowledge: "Objection. The witness has no personal knowledge that would enable him to answer this question."

h. Argumentative question: "Objection. That question is argumentative." (Attorneys cannot badger or argue with the witness. Questions may also not be argumentative in tone or manner.)

2. One objection available to the Competition which is not an ordinary rule of evidence allows you to stop an opposing witness from creating new facts. If you believe that a witness has gone beyond the information provided in the packet, use the following objection:

"Objection. The witness is creating a material fact which is not in the record."

GENERAL GUIDELINES FOR ALL PARTICIPANTS

1. Always be courteous to witnesses, other attorneys and the panel judges.

2. Always stand when talking in court and when the judge enters or leaves the room.

3. Dress appropriately. (If it's a formal competition trial, this may mean coat and tie for males and dresses or equivalent for females.)

4. Always say "Yes, Your Honor" or "No, Your Honor" when answering a question from the judge.

5. Those acting as attorneys shouldn't make objections while the other side is asking questions unless you are relatively sure that the judge will agree with your objections. (Judges don't like attorneys that constantly make objections or attorneys that make objections without being able to explain the reason for the objections.)

6. If the judge rules against you on a point or in the case, take the defeat gracefully and act cordially toward the judge and other side.

7. There is no re-direct examination or recall of witnesses.

8. All students should read the entire set of materials, and discuss the information/procedures/and rules used in the mock trial contest.

9. The facts of the case, witnesses' testimony, and the points for each side in the case should be examined and discussed. Key information should be listed on the chalkboard as discussion proceeds so that it can be referred to at some later time.

10. Even though a school team only has to represent one side in the case during any single round of the competition, all roles in the case should be assigned and practiced. This will help in preparing for future rounds, as teams must change roles in the second half of the play-off rounds.

11. Credibility of witnesses is very important to a team's presentation of its case. As a result, students acting as witnesses need to really "get into" their roles and attempt to think like the persons they are playing. Students who are witnesses should read over their statements (affidavits) many times and have other members of the team or their class ask them questions about the facts until they know them "cold."

12. Student team members have primary responsibility for deciding what possible questions should be asked of each witness on direct and cross-examination. This work can be done in class, through group work, or as an outside class assignment. Questions for each witness should be written down and/or recorded on the chalkboard.

(Based on the experiences obtained through several years of mock trial competitions, we have found that the best teams generally had their students prepare their own questions, with the teacher and attorney-coach giving the team continual feedback and assistance on the assignment as it was completed.)

13. After the questions are prepared for witnesses, a team should hold several practice sessions where its attorneys question individual witnesses, and the rest of the class or team evaluates which questions are good, and which might be dropped or added. These sessions will also help prepare the witnesses for the tournament.

GUIDELINES FOR ATTORNEY-COACHES AND TEACHERS

1. The following are the tasks involved:

   a. Teaching facts and issues of the case
   b. Teaching the law involved in the case
   c. Teaching trial procedures
   d. Teaching rules of evidence
   e. Developing student understanding of strategies for each side
   f. Organizing students to prepare the case
   g. Role assignments
   h. Rehearsal of individual parts of the trial
   i. Conducting in-class mock trial
   j. Debriefing trial
   k. Evaluating student performance
   l. Competition - team selection (volunteers, class election, this is left up to each teacher
   m. Competition - outside of class practice
   n. Competition - trials
   o. Competition - debriefing and evaluation

Case preparation can begin as an in-class activity for a period of one or two weeks before the actual competition team is selected. After the case is discussed, have students work in groups to prepare their roles. Break the class into two teams: (1) prosecution/plaintiff/petitioner, (2) defense/respondent. Designate students to be attorneys who will conduct the various parts of their case. These students can work with the witnesses to whom they are assigned, or work separately if they are assigned the opening or closing statement. During the preparation, the attorneys for each team must closely coordinate their opening and closing statements and the testimony of each witness. After the in-class trial is conducted, the competition team should be selected. Thereafter, practices should take place outside of class. An alternative to this would be to discuss the case for several days in class, after which the competition team can be selected and trial prepared outside of class.

2. <u>Tasks To Do With Entire Class</u>

   Distribute materials
   Read facts and statements
   Discussing facts (important, conflicting, damaging)
   Plot facts on a timeline
   Discuss issues of law
   Teach: steps in a trial, rules of law, evidence, burden of proof, precedent cases
   Brainstorm arguments for each side
   Brainstorm opening statements
   Brainstorm questions for witness examinations
   Conduct trial
   Debrief

<u>Tasks for Small Groups</u>

Outline/write opening statements
Organize/write direct examinations
Organize/write cross-examinations
Outline/write closing arguments
Drill witnesses on facts
Drill attorneys on statements and questions
Discuss strategies for each segment of case
Discuss possible objections to questions asked by other side

3. Key Points to remember:

   a. All participants should speak loudly and clearly; practice this by having each student attorney stand at the far end of the room while interrogating the student witness.

   b. As soon as possible, student attorneys should begin formulating questions for use in examination of witnesses; and student witnesses should rehearse their testimony. Student preparation will progress more rapidly by simulating actual conduct of the trial than by merely conducting general classroom discussion of the steps in the trial.

   c. Leading questions are not allowed on direct examination, but can and should be asked on cross-examination.

   d. Courtroom etiquette and decorum should be stressed at practice and observed at trial (e.g., standing when addressing the court, calling the judge "Your Honor").

   e. Cross-examination should be short and to the point; questions on cross-examination are designed to elicit a particular response from the witness. Asking open-ended questions which call for a narrative or explanation (e.g., "how," "why," or "could") may result in testimony which is unexpected and harmful to the cross-examiner's case.

   f. Each attorney should be prepared for interruptions from the judge on matters such as the relevance of questions, or the rationale of the arguments during the closing statement.

   g. The witness statements should not be read verbatim in the trial. They serve merely as a point of departure for oral testimony. However, testimony must not be inconsistent with facts set forth in the witness statements.

   h. Credibility of witnesses is very important; and, therefore, students acting as witnesses should be encouraged to get into the roles and to attempt to think like the person they are playing. These students should read over the statements many times and have other people ask them questions about the facts until they know them "cold." (NOTE: Witnesses are not permitted to refer to their statements during the trial, except to refresh recollections (direct) or impeach (cross).)

   i. Even though the class is representing one side during the first rounds of competition, during practice sessions students on the competition team should be assigned to play all witnesses. Use case preparation materials done during classroom work so that your competing students have two sets of trial materials to work from.

j. Opening and closing statements should be written by students with editing assistance from the attorney and teacher coaches. Coaches should not tell students to incorporate legal or nonlegal language which the students do not understand. Closing statements should not be totally composed before trial as they are supposed to highlight the important developments for the plaintiff and defense which have occurred during the trial.

k. It should be made clear to students that material or relevant facts cannot be changed from their witness statement. If they contradict this statement on the witness stand, the attorney for the other side may use it to impeach the witness. Students also may not "create" or "invent" relevant material facts or incidents which are not in the statements. However, when an attorney on cross-examination asks a question, the answer to which is not included in the statement of facts, the witness will be forced to respond with an answer consistent with his character and the facts. This should be a warning to cross-examiners to avoid asking questions which are not included in the statement of facts, as the responses will be accepted. (See Rules of Competiton.)

l. Some of the things most difficult for team members to learn to do are:

(1) To decide which are the most important points to prove their side of the case and to make sure such proof takes place;

(2) To tell clearly what they intend to prove in an opening statement and to argue effectively in their closing statement that the facts and evidence presented have proven their case;

(3) To follow the formality of court, e.g., standing up when the judge enters; or when addressing the judge, to call the judge "Your Honor," etc.;

(4) To phrase questions on direct examination that are not leading (carefully review the rules of evidence and watch for this type of questioning in practice sessions);

(5) Not to ask so many questions on cross-examination that well-made points are lost. When a witness has been contradicted or otherwise discredited, student attorneys tend to ask additional questions which often lessen the impact of points previously made. (Stop...recognize what questions are likely to require answers that will make good points for your side. Rely on the use of these questions. Avoid pointless questions!!!);

(6) To think quickly on their feet when a witness gives an unexpected answer, an attorney asks unexpected questions, or a judge throws questions at the attorney or witness. (Practice sessions will help prepare for this);

(7) To introduce documentary or physical evidence.

GUIDELINES FOR THOSE ACTING AS WITNESSES AND ATTORNEYS

This will outline various techniques and tips to be followed in preparing students to be witnesses and attorneys in mock trials. Included are suggestions for both the preparation before trial and the presentation at trial of the opening statement, direct examination, cross-examination, and the closing statement.

A. ATTORNEYS

1. OPENING STATEMENTS

a. Objective: To acquaint the judge with the case and outline what you are going to prove through witness testimony and the admission of evidence.

b. Advice in Preparing (for Attorneys): What Should be Included:

(1) A short summary of the facts;
(2) Mention of the burden of proof (the amount of evidence needed to prove a fact) and who has the burden in this case;
(3) The applicable law;
(4) A clear and concise overview of the witnesses and physical evidence you will present and how each will contribute to proving your case.

c. Other Suggestions:

(1) Attorneys should introduce their colleagues.
(2) Learn your case thoroughly (facts, law, burdens, etc.).
(3) Don't ever promise to provide something you won't or can't.
(4) Write a clear, concise and well organized statement of the case.

2. DIRECT EXAMINATION

a. Objective: To obtain information from favorable witnesses you call in order to prove the facts of your case.

b. Advice in Preparing (for Attorneys) - What Should be Included:

(1) Isolate exactly what information each witness can contribute to proving your case and prepare a series of questions designed to obtain that information.
(2) Be sure all items you need to prove your case will be presented through your witnesses.

c. Other Suggestions:

(1) Avoid asking leading questions. (There are, of course, a few generally accepted exceptions to this rule; i.e., questioning on preliminary matters such as name, address, occupation.)
(2) Practice with your witnesses.
(3) Don't ask questions requiring opinion testimony, unless the witness has been certified as an expert by the court.

d. Advice in Presenting (for Attorneys):

(1) Try to keep to the questions you've practiced with your witnesses and ask a limited number.
(2) Be able to think quickly if the witness gives you an unexpected answer and add a short follow-up to be sure you obtain the testimony you wanted.
(3) Be relaxed and clear in the presentation of your questions.
(4) Listen to the answers.
(5) If you need a moment to to think, ask the judge if you can discuss a point with your co-counsel for a moment.
(6) Be sure to have all documents marked for identification before you refer to them at trial. Then refer to them as Exhibit A, Exhibit B, Exhibit C, etc. After you have finished using it, if it helps your case, ask the judge to admit it as evidence. (See "Simplified Rules of Evidence B-5" for procedures regarding introduction of evidence.)

3. CROSS-EXAMINATION

a. Objective: To make the other side's witnesses less believable in the eyes of the judge.

b. Advice in Preparing (for Attorneys)--Types of Questions to Ask:

(1) Questions that establish that the witness is not telling the truth on important points (e.g., the witness first testifies to not being at the scene of the accident and soon after admits to being there).
(2) Questions that show that the witness is prejudiced or biased (e.g., the witness testifies that he has hated the defendant since childhood).
(3) Questions that weaken the testimony of the witness by showing his opinion is questionable (e.g., the witness with poor eyesight claims to have observed all the details of a fight that took place 500 feet away in a crowded bar).
(4) Questions that show that an expert witness or even a lay witness who has testified to an opinion is not competent or qualified due to lack of training or experience (e.g., a psychiatrist testifying to the defendant's need for dental work or a high school graduate testifying that in his opinion the defendant suffers from a chronic blood disease).
(5) Questions that reflect on the witness' credibility by showing that he has given a contrary statement at another time. (e.g., the witness testifies to the exact opposite of what he testified to during the pre-trial hearing). (This may be done by asking the witness, "Did you make this statement on June 1st?" and then read it or show a signed statement to the witness and ask, "Is this your statement?" and then ask the witness to read part of it aloud or read it to the witness yourself and ask, "Did you say that?")

c. Other Suggestions:

(1) Anticipate each witness' testimony and write your questions accordingly. Be ready to adapt your questions at trial depending on the actual testimony.
(2) Never ask anything but a leading question (questions that suggest the answers and normally only require a yes or no answer).
(3) Be brief. Don't ask questions so many times that points in your favor are thereafter lost.
(4) Prepare short questions using easily understood language.
(5) Ask only questions to which you already know the answer.

d. Advice in Presenting (for Attorneys):

(1) Be relaxed and ready to adapt your prepared questions to the actual testimony given during the direct examination.
(2) Always listen to the witness's answer.
(3) Don't give the witness the opportunity to re-emphasize the strong points made against your case during direct examination.
(4) Don't quarrel with the witness.
(5) Never allow the witness to explain anything. Keep to the "yes" or "no" answers whenever possible. Try to stop the witness if his answer or explanation is going on and hurting your case by saying "You may stop there. Thank you," or "That's enough. Thank you."
(6) Don't harass or intimidate the witness by the questions you ask him or her.

e. Other Suggestions:

(1) Know your case well.
(2) It is essential that you appear confident in your case.
(3) Eye contact with the judge is recommended when speaking to him.
(4) Use the future tense in describing what you will do (e. g., "the facts will show," "our witnesses' testimony will prove," etc.
(5) Do not read too much. Look up occasionally at the judge.

4. CLOSING STATEMENTS

a. Objective: To provide a clear and persuasive summary of: (1) the evidence you presented to prove the case and (2) the weaknesses of the other side's case. Argue for your position.

b. Advice in Preparing - What Should Be Included?

(1) Thank the judge or jury for its time and attention.
(2) Isolate the issues and describe briefly how your presentation resolved these issues.
(3) Review the witness testimony. Outline the strengths of your side's witnesses and also the weaknesses of the other side's witnesses. (Remember to adapt your statement at the end of the trial to reflect what the witnesses actually said as opposed to the anticipated weaknesses of the other side.)

(4) Do not make objections during the other side's closing argument.
(5) Do not read all the way through.
(6) Keep eye contact with the judge or at least look up occasionally.

B. WITNESSES

1. DIRECT EXAMINATION

a. Advice in Preparing (for Witnesses)

(1) Learn the case inside out, especially your witness statement (affidavit).
(2) Know the questions that your attorney will ask you and prepare clear and convincing answers that contain the information that the attorney is trying to get you to say.
(3) Practice with your attorney.

b. Advice in Presenting (for Witnesses):

(1) Be as relaxed and in control as possible. An appearance of confidence and trustworthiness is important.
(2) Don't read or recite your witness statement verbatim. You should know its content beforehand.
(3) Be sure that your testimony is never inconsistent with the facts set forth in your affidavit.
(4) Don't panic if the attorney or judge asks you a question you haven't rehearsed.

2. CROSS-EXAMINATION

a. Advice in Preparing (for Witnesses):

(1) Learn the case thoroughly, especially your witness statement.
(2) Anticipate what you will be asked on cross-examination and prepare answers accordingly. In other words, isolate all the possible weaknesses, inconsistencies, problems in your testimony and be prepared to explain them.
(3) Practice.

b. Advice in Presenting (for Witnesses):

(1) Be as relaxed and in control as possible. An appearance of confidence and truthfulness is important.
(2) Be sure that your testimony is never inconsistent with the facts set forth in the witness statement.
(3) Don't read or recite your witness statement word for word.
(4) Cross-examination can be tough, so don't get flustered.

GUIDELINES FOR THOSE ACTING AS JUDGES

Judging is done by a panel of three individuals: the "presiding judge" and one "panel judge" are both attorneys and the third is a community representative.

1. Duties of Panel Judges:

   a. Familiarize themselves with the contents of the Mock Trial Handbook, including the rules, case and Performance Rating Sheet.

   b. Meet 20 minutes prior to the beginning of the trial with Project staff members to clarify questions. (Judges are also encouraged to contact staff members at 533-5891 with any questions prior to this pre-trial meeting.)

   c. Discuss timing procedures with both bailiffs prior to the trial.

   d. If you are unable to attend your scheduled trial, please try to supply us with a substitute and call 533-5891 to report any changes as far in advance as possible.

   e. The "presiding judge" will rule on all objections, answer questions, etc., unless he/she prefers to confer with the other panel judges. (All three judges will be seated together at the bench to facilitate conferences, if needed.)

   f. The purpose of the non-attorney panel member is to judge the students on non-legal criteria: presence, organization, speaking skills, clarity of presentation, ability to think on their feet, etc.

   g. All three panel judges will score each team using the Performance Rating Sheet. When deciding which school made the better overall team presentation, the judges should consider the performance of all witnesses and attorneys for both sides, as well as the bailiff. Credit should be given to the team for a well-balanced presentation, with strong points equally distributed among team members.

      (1) Each judge shall fill out his/her rating sheet during the trial to assist in rating each team and determining a winner. (There will be two short recesses to facilitate marking of the rating sheets. One will be following cross-examination of the plaintiff's witnesses and the other will be prior to the closing statements.)

      (2) Following the trial, the three judges should meet privately to rate each team and determine the winner on performance. Using their individual rating sheets and through deliberations, the judges should agree upon and assign a "consensus" score in each area of the rating sheet. In other words, a fourth rating sheet should be completed by the three judges after their negotiations are completed. The team with the highest score on the "consensus" rating sheet is the performance winner. A total of 55 points is possible.

h. After meeting privately to determine the performance winner, the three judges should return to the courtroom where the Presiding Judge will announce two decisions:

(1) The first decision is made soley by the Presiding Judge and deals with the merits of the case, i.e., deciding the facts and applicable law. When making this determination, the judge should consider only the evidence presented, the statute provided in the fact pattern, the stipulated facts, and the legal arguments of the attorneys. No other cases, statutes, etc., may be referred to by counsel during the trial. The judge should state his or her decision on the merits and explain as much as he or she desires. The finding in favor of plaintiff or defendant on the merits does not determine which team wins or advances to the next round.

(2) The second decision is a consensus decision by the three judges based upon the quality of the students' performance in the trial and the best overall team presentation. It is this decision that determines which team advances into the next round.

i. Panel judges should then proceed to "debrief" the trial. By explaining the decision on the merits, students will have an opportunity to increase their knowledge of the law. By offering suggestions, pointing out strengths and weaknesses in performance, teams will be better able to prepare their presentation for future rounds. Judges should appropriately praise both the winning and losing team, remembering that students, teachers and attorneys take this decision very seriously. Encouraging statements to losing teams could include the following: "Both teams did an outstanding job and should be commended." "Your extensive preparation was very evident." "It was a close decision." This debriefing period should last 15-20 minutes. One panel member may handle this debriefing session.

j. Teams may examine the rating sheet, but these must be turned in to the Project staff member in attendance.

2. Rules and regulations for judges to enforce:

a. Attempt to keep the courtroom atmosphere and demeanor as close to an actual courtroom as possible.

b. Under contest rules, student-attorneys are allowed to use notes in presenting their cases; witnesses may not use notes in testifying.

c. Attorneys and witnesses may neither contradict the "Statement of Facts/Witness Statement" sheets for the case nor introduce any evidence that is not included or described in this packet of materials.

d. Tournament procedures only permit the direct and cross-examination of each witness; no re-direct.

e. Except for opening the court, general procedural instructions, rulings on objections, etc., our past tournament experience has shown that it is best to keep judicial involvement/participation to a minimum during the trial enactment.

f. The rules of evidence governing trial practice have been modified and simplified for the purposes of this mock trial tournament. (See enclosed Simplified Rules of Evidence.)

g. Witness statements may be used by attorneys to "refresh" a witness's memory and/or impeach the witness's testimony in court.

h. Attorneys have been asked to keep their presentation within the following guidelines: Opening Statements - 5 minutes; Direct Examination - 9 minutes/witness or 27 minutes total; Cross-Examination - 7 minutes/witness or 21 minutes total; Closing Statements - 7 minutes.

i. If a team fails to adhere to the established guidelines/rules set forth for the tournament competition, a judge may (depending upon the circumstances of the violation) lessen his/her rating of that team.

GUIDELINES FOR THOSE ACTING AS CLERK/BAILIFF

1. The clerk/bailiff will be responsible for the opening and closing of court and all court recesses.

   Example of opening the court:

   The clerk/bailiff enters the room and calls out: "All rise. The _____ District Court of Utah is now in session. The Honorable Judge _____ presiding." All participants remain standing until the judge is seated. The judge asks the bailiff to call the day's calendar, at which point the bailiff says, "Your Honor, today's case is Vincent Taylor vs. Alta View Hospital for Women." The judge asks if the attorneys for each side are ready.

2. The clerk/bailiff is responsible for swearing in all witnesses:

   "You do solemnly swear to tel the truth, the whole truth, and nothing but the truth, so help you God."

3. The clerk/bailiff is responsible for the marking of all exhibits entered into court and should see the presiding judge prior to the trial for instructions on this procedure.

4. The clerk/bailiff is responsible for maintaining order in the courtroom.

5. The clerk/bailiff is responsible for keeping time and should familiarize himself/herself with the time guidelines as found in the Rules of Competition. (See page 6.) He/she will meet with Project staff and panel judges prior to each trial to clarify timing procedures.

6. The clerk/bailiff should have a stop watch (with a second hand) to enforce time. Time sheets (see enclosed) will be kept by the clerk/bailiff and turned in to the judge following the teams' presentations. Time should be calculated to the nearest half-minute.

7. Interruptions in the presentations do not count as time. For direct and cross-examination, record only time spent by attorneys asking questions and witnesses answering them. Don't include time when witnesses are being sworn in, attorneys are making objections, judges are ruling on objections, etc.

8. Time cards will be distributed to each teacher at the training session. These cards should be used during the trial to indicate to team members and panel judges how much time is remaining. Cards indicate the following: half time used, 1 minute left, 30 seconds left, time, over limit.

9. The clerk/bailiff for the plaintiff will preside for the opening statements and the direct and cross-examination of their witnesses. The clerk/bailiff for the defendant will preside at the direct and cross-examination of their witnesses and the closing arguments.

CLERK/BAILIFF'S TIME SHEET

_____ vs. _____

Plaintiff - School Name Defendant - School Name

Date:

Bailiff's Name:

	Plaintiff	Defendant
Opening Statement *(5 Minutes)	_____	_____
Direct Examination (9 Minutes per witness or 27 Minutes Total)	_____	_____
1.		
2.		
3.		
4.		
5.		
6.		
Cross-Examination (7 Minutes per witness or 21 Minutes Total)	_____	_____
1.		
2.		
3.		
4.		
5.		
6.		
Closing Statements *(7 Minutes)	_____	_____
TOTAL	_____	_____

Maximum Time Allowed is 61 Minutes.

Notes: (1) Total combined time for opening and closing statements is not to exceed 12 minutes.

(2) Round off times to the nearest one-half minute.

Examples: 3 minutes, 10 seconds = 3 minutes; 4 minutes, 15 seconds = 4½ minutes, 2 minutes, 45 seconds = 3 minutes

DISTRICT COURT OF THE
STATE OF UTAH

CIVIL DIVISION

VINCENT TAYLOR, plaintiff

versus

ALTA VIEW HOSPITAL FOR WOMEN

RAYMOND MILLER, M.D.,

AND DOROTHY DILLON, R.N.,

defendants

No. MT-83

STATEMENT OF STIPULATED FACTS *

Alta View Hospital for Women, founded in 1921, is a small private facility exclusively devoted to the medical care of women. The hospital has sixty beds. As of the payroll dated October 30, 1982, the staff of Alta View was composed as follows:

Position	Male	Female
Staff Doctors	9	5
Staff Nurses	1	34
Nursing Assts.	0	16
Phys. Therapists	2	5
Occup. Therapists	3	4
Dieticians	1	2
Administrative Staff (non-medical)	2	6
General Support (incl. custodial)	8	15
TOTAL	26	87

*This case is completely hypothetical. Any resemblance between the fictitious persons, facts, and circumstances described in this mock trial and real persons, facts, and circumstances is coincidental.

Vincent Taylor was the sole male nurse on Alta View's staff. Dr. Raymond Miller was, and is, the Chief Administrator of the Hospital. Mrs. Dorothy Dillon was, and is, the Nursing Director.

Vincent Taylor was hired on March 1, 1982. At that time, Mrs. Linda Brownlee was the Nursing Director, and she was responsible for hiring. Mrs. Brownlee was killed in early July, 1982. Dorothy Dillon was appointed to take Mrs. Brownlee's place.

By a letter dated November 25, 1982, Dorothy Dillon terminated Vincent Taylor's employment. The grounds for Mr. Taylor's termination are stated in that letter. Mr. Taylor disputes the stated grounds, and this dispute is the basis for this law suit.

STATEMENT OF LEGAL ISSUES

As a result of his termination by Alta View Hospital, Mr. Vincent Taylor has brought this suit alleging that the Hospital, its Chief Administrator and Nursing Director illegally discriminated against him on the basis of his sex.

This cause of action is brought under the Utah Anti-Discriminatory Act, Utah Code 34-35-1, et. seq., which states in relevant part:

> Utah Code Annotated 34-35-6. Discriminatory or unfair employment practices - Permitted practices -
>
> (1) It shall be a discriminatory or unfair employment practice:
>
> (a) For an employer to refuse to hire, to discharge, to promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, because of race, color, sex, religion, ancestry or national origin. No applicant nor candidate for any job or position shall be deemed "otherwise qualified" unless he or she possesses the education, training, ability, moral character, integrity, disposition to work, adherence to reasonable rules and regulations, and other qualifications required by an employer for any particular job, job classification or position to be filled or created.
>
> 34-35-8. Judicial review - Procedure. - (1) Any complaint, or respondent claiming to be aggrieved by a final order of the commission, including a refusal to issue an order, may obtain judicial review thereof and the commissioner may obtain an order of court for its enforcement in a proceeding as provided in this section.
>
> (2) Such proceeding shall be brought in the district court of the district in which is located the county in which the alleged discriminatory or unfair employment practice which is the subject of the commission's order was committed. . .

(3) Such judicial review sought by the person or persons claiming to be aggrieved by a final order of the commission shall be initiated by filing in the district court not later than one month after actual service of a copy of the order of the commission on such aggrieved party or parties, a petition for a trial de novo in the district court.

Utah Code Annotated requires that all administrative remedies be exhausted before appeal can be taken to the District Court. Consequently, dissatisfied with the Utah Anti-Discrimination Division's findings under the Utah Anti-Discrimination Act, Mr. Taylor has the right to appeal and is exercising his right to a trial de novo (a new trial or retrial had in an appelate court in which the whole case is gone into as if no trial whatever had been had in the court below) in District Court.

WITNESS LIST

For the Plaintiffs

Vincent Taylor, plaintiff

Harriet Dawson, former supervisor of Mr. Taylor

Sheila Gray, colleague of Mr. Taylor at Alta View

For the Defense

Dorothy Dillon, defendant, Nursing Director at Alta View

Raymond Miller, defendant, Chief Administrator at Alta View

Donna Winters, former patient at Alta View

DOCUMENTS**

Memorandum of February 15, 1982 from Dillon to Brownlee
Handwritten note of 11/20 from Miller to Dillon

Personnel File of Mr. Taylor

Includes: Letter of Termination, November 25, 1982
September 15, November 1 personnel evaluation forms

August 10, 1982 memorandum denying transfer to cardiac care unit

**IT IS STIPULATED THAT ALL DOCUMENTS ARE AUTHENTIC AND MAY NOT BE CHALLENGED ON THE GROUNDS OF AUTHENTICITY.

WITNESS FOR THE PLAINTIFF

VINCENT TAYLOR

My name is Vincent Taylor. I am 34 years old. I live at 1635 W. Whitlock Avenue, Salt Lake City, Utah 84119. I am a Registered Nurse.

My interest in a nursing career developed during my tour of duty as a paramedic in Vietnam. After my service in the war, I was assigned to the Hill Air Force Base Clinic here in Utah. I completed my nursing training there, and in 1977 I became licensed as a registered nurse.

In 1978 I left the military service and joined the nursing staff of the University of Utah Medical Center. In 1982, I decided I wanted to work in a smaller hospital where I could receive specialized training as a cardiac care nurse, an interesting specialty which also generally pays more than a staff nurse position. My supervisor at the Medical Center referred me to Alta View Hospital for Women. Alta View seemed ideal, both for its small size and excellent reputation for cardiac care.

I was hired by Alta View in March, 1982. Mrs. Linda Brownlee was the Nursing Director who hired me. She told me that I was the first male nurse to be hired by Alta View in its sixty-year history. She welcomed me to the staff, but she also warned me that some of the nurses might have a little trouble getting used to having me around.

I did not encounter any serious difficulties with any of the nurses except one: Dorothy Dillon, who was the Assistant Director of Nursing when I started. I thought her reception was downright hostile. During my first day at Alta View, Mrs. Dillon told me flat out that she believed that a male nurse would not be well received by the patients at Alta View, and that I would certainly have to work extra hard to prove myself. I told Mrs. Dillon that, having survived the war in Vietnam, I was sure I could survive Alta View Hospital.

Sadly, Mrs. Brownlee was killed in a car accident in July, 1982. Dorothy Dillon was promoted to Nursing Director. Frankly, knowing that Mrs. Dillon was watching me like a hawk made me very nervous, particularly now that she was the Nursing Director. She made me so nervous that I dropped the dinner tray all over a patient when she suddenly appeared in a room as I was serving dinner. As Mrs. Dillon helped to clean up the mess, she said to the patient, "Well, what do you expect from a male nurse? They just don't belong in a place like this."

Shortly before Mrs. Brownlee was killed, I had requested transfer to the cardiac care unit, to begin my specialized training there. The transfer would nave meant a ten percent salary increase as well. Mrs. Brownlee assured me that the transfer would go through without a problem. On August 10, 1982, I received a memo from Mrs. Dillon denying my transfer request. In addition, she advised me that I was being reassigned to the night shift, 11 p.m. to 7 a.m. No other nurse was reassigned.

I went directly to Mrs. Dillon and asked for an explanation of the reassignment. She replied, "Why does it matter to you? A single man like yourself shouldn't mind working nights. Besides, maybe this will help Nurse Gray concentrate on her work more." Nurse Gray was one of my co-workers on the day shift, and Mrs. Dillon did not like the fact that we went out once in a while. I was furious with Dillon's comment. I complained to the Chief Administrator, Dr. Miller, but he refused to get involved. From that time on, I tried to be more cooperative, but I kept getting bad performance evaluations from Mrs. Dillon. I became convinced that she was out to get me.

Finally, there was the unfortunate incident of November 13. At 3:00 a.m. I responded to a patient call per the usual procedure. The patient was new that day, so I had not had a chance to meet her. When I entered the room, the patient seemed startled, she screamed, and tried to get out of bed. However, she slipped, fell, and struck her head on a corner of the night table. She suffered a fractured skull, and died later that day. I subsequently learned that the patient was an important benefactor of the hospital, Mrs. Ethel Andover.

On the afternoon of November 13, I was summoned to a meeting in the Chief Administrator's office. I was asked to relate the details of the incident, which I did. I was then told that I was being placed on administrative leave pending the outcome of the investigation. Two weeks later I received a letter of termination from Mrs. Dillon.

The charge of negligence in the letter is totally false. Nurse Gray was the only other person awake on the floor at the time of the accident, and she was never even interviewed. The negligence charge was just a convenient way to get rid of me. Fortunately for Mrs. Dillon, the Andover family cooperated by agreeing to settle out of court, at the price of firing me.

Vincent Taylor

/s/ Vincent Taylor,

SUBSCRIBED AND SWORN to before me this 12th day of January, 1983.

My Commission Expires: 6/15/84

Carol Ann Fiedler

Notary Public

WITNESS FOR THE PLAINTIFF

HARRIET DAWSON

My name is Harriet Dawson. I am 46 years old. I am the Assistant Director of Nursing Services at the University of Utah Medical Center. I am specifically responsible for nursing personnel management at the Medical Center.

I hired Vincent Taylor to our staff in 1978. His recommendations from his prior military service were excellent. During his stay at the Medical Center, he earned consistently favorable performance evaluations from his supervisors. On at least one or two occasions each month, as is my practice with all of the nursing staff, I observed Mr. Taylor directly while he was working. I was most impressed with his patience, sensitivity, and good humor with all of the patients.

Mr. Taylor was never specifically assigned to work on one of the all-female wards at the Medical Center. This was not intentional, but simply the luck of the draw. We have 32 male nurses on a total nursing staff of six hundred. Nationally, only about three percent of all nurses are men; our proportion is five percent, which is just about the most of any area hospital, most of which average from one to four percent male nurses.

In his work in the emergency unit, later on in pediatrics, and then in the intensive care unit, Mr. Taylor did have many opportunities to work with female patients, and his care was always excellent and professional. Some of the patients even told me that, before they met Mr. Taylor, they had negative ideas about men in the nursing profession, but that the quality of his care changed their minds.

I always found Mr. Taylor to be extremely competent and cooperative. I consider cooperation to be an extremely important quality for a nurse to have. Just last week I had to fire a nurse who, while she was extremely competent, consistently questioned her supervisor's directions. A nurse who is not cooperative is a hindrance, and even a danger, to the work of any hospital.

From my three years of experience supervising Mr. Taylor, I believe that he is an asset to the nursing profession. We desperately need more young men and women like him. I certainly hope that his most unfortunate experience at Alta View will not handicap his nursing career.

Harriet Dawson

/s/ Harriet Dawson

SUBSCRIBED AND SWORN to before me this 12th day of January, 1983.

My Commission Expires: 6/15/84

Carol Ann Liedtke

WITNESS FOR THE PLAINTIFF

SHEILA GRAY

My name is Sheila Gray. I am 32 years old. I live at 2164 Elizabeth Street, Salt Lake City, Utah, 84106.

I am currently engaged in private home care. Until early December 1982, I was a staff nurse at Alta View Hospital for Women.

I quit my job at Alta View when I heard they fired Vince Taylor. That was the final straw. Nursing Director Dorothy Dillon had been out to get rid of him from the moment she became the Nursing Director. She made it clear to all of her staff that she believed that a man had no business working as a nurse in a women's hospital.

She was always checking up on Vince, more so than on any of the other nurses. To make matters worse, she went out of her way to break up any friendships that staff nurses might have had with Vince. All of us on the staff were friends, and some of us frequently went out for drinks or dinner after work. Mrs. Dillon thought it was just fine for the women on the staff to have that kind of camaraderie. But when I went out to dinner with Vince one night, Mrs. Dillon had a fit. She called me into her office and told me that I was being most unprofessional by going out with Vince. She warned me that it better not happen again. Then, in a further effort to be sure that Vince and I would not continue to see each other socially, she changed his shift and days, so that neither of us ever would have a day off together. The irony of the situation was that Vince and I were only work acquaintances; we weren't real close friends.

Mrs. Andover's accidental death was an unfortunate incident for all involved. However, Vincent Taylor was not negligent in any way. I know, because I was there that night. I had switched shifts with another nurse the previous day.

Vince and I were sitting at the Nurse's station at about 3:00 a.m. on the morning of November 13. Mrs. Andover's buzzer rang. Vince went to respond to the call. Her room was just two doors down the hall. As soon as Vince entered her room, I heard a scream. I jumped up, and quickly ran to the scene. When I entered the room, Vince was kneeling beside the patient who was on the floor. Vince told me to call a doctor immediately, and I did. Some of the other patients on the floor heard the commotion, so I went to work getting them calmed down and back to bed.

In the subsequent investigation of the incident, neither Mrs. Dillon nor Dr. Miller ever asked me for a report on what happened. I decided not to make a big deal about it at that time, because I didn't want to highlight the fact that I was working on the wrong shift. I was afraid that she might fire me for switching shifts.

A few days after the incident, I happened to be in the staff lounge. Dr. Miller's secretary, Sandy Johnson, came in looking for Dorothy Dillon. I told Sandy that I might be seeing Mrs. Dillon during the next half-hour. Sandy asked me to give Nurse Dillon a note from Dr. Miller, and she handed me a folded piece of paper.

I know I shouldn't have looked at the note, but curiosity got the better of me. I was shocked to see that the note concerned Vince, and that it indicated that the Andovers were putting pressure on the hospital. I slipped down to the library and made a copy of the note. Then I took the original, sealed it in an envelope, and put it in Mrs. Dillon's mailbox at our nurse's station. That way, she wouldn't suspect that I saw the note. Sandy really should have followed Dr. Miller's orders and delivered the note herself.

I saved the copy of the note, but I didn't show it to Vince until after he was fired. It was after I showed him the note that he decided to get a lawyer.

At a staff meeting on De[illegible] Mrs. Dillon announced that Mr. Taylor was no longer a member o[illegible]'s nursing staff. She proceeded to comment that it would be a lo[illegible]e before another male nurse would come to work at Alta View.

A few days after that meeting I decided that I could no longer work at Alta View knowing what I did about the circumstances surrounding Vince's case.

/s/ Sheila Gray

SUBSCRIBED AND SWORN to before me this 12th day of January, 1983.

My Commission Expires: 6/15/84 Carol Ann Liedtke

WITNESS FOR THE DEFENSE

DOROTHY DILLON

My name is Dorothy Dillon. I am 37 years old. I live at 574 4th Avenue, Salt Lake City, Utah, 84103. I am the Nursing Director at Alta View Hospital for Women, where I have been employed for my entire nursing career.

The charges in this case are outrageous, to say the least, but certainly typical of the disruptive and unprofessional conduct that characterized Vincent Taylor's tenure as staff nurse at Alta View Hospital.

When a staff nurse position opened in early 1982, Mrs. Linda Brownlee, our former nursing director, and I conferred regarding the qualifications for filling the position. At that time, I was the Assistant Nursing Director.

Mrs. Brownlee and I speculated on the number and type of applicants we might attract, given the current severe nursing shortage and severe economic times. We discussed the possibility that some men might apply for the position. I expressed some reservations about the advisability of adding men to the nursing staff at a small, all-women's hospital, and I spelled out these reservations in a memo to Mrs. Brownlee. It certainly would have been foolhardy for us to think that the patients would be totally receptive to male nurses.

We had twenty-five applicants for the position, including three men. Vincent Taylor was the only male applicant who qualified on paper. Eight female applicants were similarly qualified. Mrs. Brownlee and I interviewed all nine qualified applicants.

Frankly, I was unimpressed with Mr. Taylor from the moment he walked through the door. He did not wear a tie, his jacket and shirt were wrinkled, and his hair needed a trim. I consider personal neatness to be a very important quality in a nurse, and Mr. Taylor was far from neat.

Mr. Taylor also used quite a bit of slang in his speech, and made some rather bad jokes about hospitals and patients. After the interview, I told Mrs. Brownlee that I felt Mr. Taylor was not the right personality for our nursing staff. However, and I will never understand this, Mrs. Brownlee felt that Mr. Taylor was "rather charming" and that he would be a welcome addition to the staff.

My first supervisory encounter with Mr. Taylor came about a month after Mrs. Brownlee's untimely death. I found it necessary to make some changes with regard to staff assignments. Mr. Taylor's was one of those I had to change. He responded to my memo of August 10, 1982 in an immature, unprofessional manner. I warned him that his conduct was totally unacceptable, and that any further outbursts would result in his dismissal.

The other problem that seemed to grow worse with each week was Mr. Taylor's romance with one of our young nurses, Ms. Gray. I certainly don't mind friendships among the nurses; in fact, I encourage friendship, because it makes the working environment much more pleasant. However, Mr. Taylor and Nurse Gray

were certainly more than friends, and their relationship interfered with their work. The day shift nursing supervisor complained to me several times that Taylor and Gray would disappear into the supply room for a long time, or that they would be so engrossed in conversation that they would ignore patient calls and doctor requests. Even some of the doctors complained. Finally, I had no choice but to separate their work shifts.

The tragedy that we all fear from such nursing negligence finally came true on the morning of November 13. In direct violation of my orders, Nurse Gray changed her shift to be with Vince Taylor that night. Our hospital investigation concluded that Mrs. Andover fell out of bed before any nurse arrived on the scene. Other patients on the floor told me that they heard a patient calling for the nurses repeatedly, for maybe as much as one-half hour before they heard any nurses respond. Apparently, Mrs. Andover became so frustrated that she tried to get out of bed, but she fell in the process. Where Taylor and Gray were, what they were doing during that period of time can only be imagined, but they were clearly negligent. Even if Mrs. Andover wasn't using her nurse call button correctly, the patient reports indicate that her hollering was loud enough to be heard around the hallway.

I was in favor of firing both individuals immediately, but Dr. Miller insisted on an investigation and a personnel review. Because Mr. Taylor was the head nurse on the shift that night, and Ms. Gray wasn't even supposed to be there, our investigation focused on his actions. Dr. Miller and I finally agreed that the incident combined with his dismal performance were sufficient to terminate his employment. We were in the process of reviewing Nurse Gray's personnel file and considering disciplinary action when she resigned.

Dorothy Dillon

/s/ Dorothy Dillon

SUBSCRIBED AND SWORN to before me this 12th day of January, 1983.

My Commission Expires: 6/15/84 Carol Ann Liddle

WITNESS FOR THE DEFENSE

RAYMOND MILLER

My name is Raymond Miller. I am 56 years old. I live at 1480 Roxburg Road, Salt Lake City, Utah, 84108. I am a doctor, an orthopedic specialist, and chief administrator of Alta View Hospital for Women, a position I have held for the last four years.

Words could not convey my shock at the news of the death of Ethel Andover. Though in her late seventies, she was still an active member of Alta View's Board of Directors, and a major benefactor of the hospital. She and I had been close personal friends for years. In fact, Ethel was the person mainly responsible for my transfer to Alta View from LDS Hospital.

I knew that Ethel had been admitted to Alta View on Friday, November 12, because I was scheduled to perform a hip replacement on her the following Monday morning. The tragedy of her death was made even worse by the fact that it was negligence of Alta View's own staff that killed her.

I launched an immediate investigation. At 3:00 p.m. on November 13 I called a meeting of Chief of Surgery, Dr. Carter, who had performed emergency surgery on Mrs. Andover, Nursing Director Dillon, and Mr. Vincent Taylor who was in charge of the night shift when the fatal accident occurred. Dr. Carter explained the medical details of Mrs. Andover's death. Mrs. Dillon related facts surrounding the incident. According to her investigation, Mrs. Andover's repeated calls for nursing assistance were ignored. Finally, she became frustrated and tried to get out of bed herself. Because of her bad hip, her mobility was quite limited, and this may have contributed to her fall. However, that's not too important here, because she would not have fallen if the nurse had responded to her calls.

I was distressed that Mr. Taylor was apparently the negligent party. I liked Mr. Taylor; he brought a whole new mood and atmosphere to Alta View. I knew that Dorothy Dillon was giving Vincent a hard time, but that was her procedure with all new nurses. I also knew that she was having a little difficulty adjusting to supervising a male nurse; the experience was new for all of us. I confess, I did not pay much attention to Mrs. Dillon's complaints about Taylor, nor to his complaints about her. Maybe I should have been more attentive to the problem.

Nevertheless, when Taylor gave his report about the Andover incident, I was chagrined to hear that his version of the facts was quite different from Mrs. Dillon's. I immediately knew that further investigation was necessary. I placed him on administrative leave until further notice. Mrs. Dillon suggested that Taylor be terminated immediately. However, knowing the history of personal animosity between them, I did not want to rush into a decision. I asked Mrs. Dillon to give me Taylor's personnel file.

Upon reviewing Taylor's file, I became convinced that the combination of his prior bad performance evaluations with his apparent negligence in the Andover case were sufficient to terminate his employment at Alta View. I instructed Nurse Dillon to proceed with a termination letter.

As is our policy at Alta View, and as the termination letter clearly states, any employee who is dismissed has a right to request an in-house hearing on this matter. Mr. Taylor did not request such a hearing. Instead, he proceeded directly to the Industrial Commission with this lawsuit.

Understandably, the Andover family was upset about the nature of the tragedy. It is true that Mrs. Andover had raised some objections to our hiring a male nurse, but she was willing to allow the experiment. However, contrary to a charge Mr. Taylor is trying to raise in this case, the decision to terminate his employment was based on his performance and his failure to perform. This decision was not dictated by the Andover family.

/s/ Raymond Miller, M.D.

SUBSCRIBED ANS SWORN to before me this 12th day of January, 1983.

My Commission Expires: 6/15/84 Carol Ann Liedtke

WITNESS FOR THE DEFENSE

DONNA WINTERS

My name is Donna Winters. I am 34 years old. I live at 5858 South 17th East, Salt Lake City, Utah, 84121. I am a marketing representative for the Datafax Corporation.

On August 3, 1982, I was admitted to Alta View Hospital for some tests. I stayed for one week. I was generally satisfied with everything and everyone at Alta View with the exception of Vincent Taylor, one of the nurses on my floor.

I guess I was a bit surprised the first time I met Mr. Taylor. I really didn't expect a guy to be working as a nurse in a women's hospital. But I didn't particularly mind the fact that he was one of my nurses. Most of the doctors were men, so, why not a nurse?

The problem with Taylor had nothing to do with the fact that he was male. The problem was his personality and style, and I know that many of the other patients felt the same way I did. He was too loud, always making stupid little jokes. He was probably trying to cheer us up, but he really was not very comforting at all.

The first time I met Mr. Taylor was when he came in to take my temperature late on the first day I was on the floor. I was sound asleep. He yelled in my ear, "Rise and shine!" I was pretty drowsy and didn't respond at first, and then he shouted, "Look, lady, I've got better things to do, so open your mouth," and he shoved the thermometer in. I guess he was in a hurry to get back to his friend Nurse Gray.

I was most upset the night he dropped a full dinner tray all over me. He'd been clowning around, as usual, and he was dancing across the room with my dinner tray, holding it up in the air with one hand, like a waiter in a play. Actually, it was pretty funny. But he tripped slightly just as he neared my bed, and the tray flew out of his hand and all over me. At that very moment, Nurse Dillon came into my room, so she got to see the incident. She ordered him to leave immediately. Then she helped me get cleaned up. I understand that, after that incident, Taylor was assigned to the late night shift so that he would not be able to spend much time around the patients while they were awake. Everyone was relieved to hear that.

Donna Winters

/s/ Donna Winters

SUBSCRIBED ANS SWORN to before me this 12th day of January, 1983.

My Commission Expires: 6/15/84 Carol Anne Liedtke

DOCUMENTS

Alta View Hospital for Women

9660 South 1300 East Sandy, Utah 84070 Phone (801) 572-2600

February 15, 1982

MEMORANDUM

To: Mrs. Linda Brownlee, Nursing Director

From: Mrs. Dorothy Dillon, Assistant Nursing Director

Re: Hiring Male Nurses to Work at Alta View

In line with our conversation yesterday, I would like to underscore these concerns I have regarding hiring men to work as nurses at Alta View:

1) Patient impact: Patients who choose Alta View expect a predominantly female environment for their care. Nursing care is a very personal business, and our patients may be distressed to discover that Alta View employs men as well as women to deliver that care. Should we employ men, the patients will have to be prepared to accept them.

2) Staff impact: Without doubting anyone's sense of professionalism, having men on the nursing staff may lead to relationships that interfere with work. We may have to create new nursing personnel policies to accommodate having men on our staff.

I am not totally opposed to hiring a male nurse onto our staff, but we must be sure that he is the right person. Because nursing is traditionally a female profession, and because Alta View's purpose and reputation is as a women's hospital, a change in our staff composition may be difficult for some people to accept. I urge caution.

DD/yz

PERSONNEL FILE: VINCENT TAYLOR

HIRED: 3-1-82

TERMINATED: 11-25-82

CONFIDENTIAL

From the Desk of — RAYMOND MILLER, M.D.

11-20

D —

CLYDE ANDOVER WANTS TO KNOW WHY TAYLOR WAS HIRED — MALE NURSE ISSUE. HE MIGHT — CAUSE TROUBLE WITH ETHEL'S WILL. WE MUST MOVE QUICKLY TO DISPOSE OF TAYLOR CASE.

SEE ME A.S.A.P.

RM

Alta View Hospital for Women

Alta View Hospital for Women

9660 South 1300 East Sandy, Utah 84070 Phone (801) 572-2600

August 10, 1982

MEMORANDUM

To: Vincent Taylor, Staff Nurse

From: Dorothy Dillon, Nursing Director

Re: TRANSFER REQUEST AND REASSIGNMENT

Per your memorandum to Mrs. Brownlee of June 28, 1982: Your request for transfer to the cardiac care unit is denied. Further requests will not be considered unless significant improvement occurs in your overall work performance.

On another matter, as a result of a schedule shake-up, you have been reassigned to the 11:00 p.m. - 7:00 a.m. shift, effective August 15. Your days will be W-Th-F-S-S.

See me if you have any questions about this.

DD:mhz

PEF # 10-N +++ ALTA VIEW HOSPITAL FOR WOMEN DATE 4-15-82

EMPLOYEE NAME Vincent Taylor SUPERVISOR Mrs. Allen

+++PERSONNEL EVALUATION FORM #10-N FOR FORTY-FIVE DAY SUPERVISORY PERIODS.

GENERAL RATINGS: 1=unacceptable; 2=poor; 3=fair; 4=good; 5=preferred

IF RATING INDICATES LESS THAN PREFERRED PERFORMANCE, PLEASE INDICATE REASONS WHY IN THE COMMENTS SECTION AFTER EACH ITEM.

PERFORMANCE AREA	RATING (CIRCLE ONE)					COMMENTS
1. Attendance	1	2	3	4	(5)	
2. Promptness	1	2	3	4	(5)	
3. Appearance	1	(2)	3	4	5	Sloppy; Disheveled
4. Organization	1	(2)	3	4	5	Unfocused; sloppy
5. Orderliness of Work Habits	(1)	2	3	4	5	Leaves charts, records all over!
6. Thoroughness	1	(2)	3	4	5	Easily distracted.
7. Technical Competence	1	2	3	4	(5)	
8. Professionalism	(1)	2	3	4	5	Totally unacceptable - esp. relationship w/ S. Gray!
9. Responsiveness to Patient Requests	1	(2)	3	4	5	Slow
10. Patient Satisfaction with nurse care	1	(2)	3	4	5	Spills trays; handles too roughly — many complaints
11. Cooperation with Peers	1	2	(3)	4	5	→ Most nurses find Taylor loud and overbearing
12. Cooperation with Supervisor	(1)	2	3	4	5	

OTHER COMMENTS: Mrs. Taylor is totally disrespectful and uncooperative. Have discussed this problem with Dr. Miller - he says watch and wait

ACTION: I have given Taylor several verbal warnings, but no improvement. So need to make written report.

Dorothy Allen Supervisor's signature

PEF # 10-N +++ ALTA VIEW HOSPITAL FOR WOMEN DATE 11-1-82

EMPLOYEE NAME Vincent Taylor SUPERVISOR Dillon

+++PERSONNEL EVALUATION FORM #10-N FOR FORTY-FIVE DAY SUPERVISORY PERIODS.

GENERAL RATINGS: 1=unacceptable; 2=poor; 3=fair; 4=good; 5=preferred

IF RATING INDICATES LESS THAN PREFERRED PERFORMANCE, PLEASE INDICATE REASONS WHY IN THE COMMENTS SECTION AFTER EACH ITEM.

PERFORMANCE AREA	RATING (CIRCLE ONE)					COMMENTS
1. Attendance	1	2	3	(4)	5	Absent twice
2. Promptness	1	2	3	(4)	5	Late 3x
3. Appearance	1	(2)	3	4	5	Needs haircut
4. Organization	1	(2)	3	4	5	Cannot prioritize Pat.
5. Orderliness of Work Habits	1	2	(3)	4	5	Has improved a little - improved -
6. Thoroughness	1	2	(3)	4	5	
7. Technical Competance	1	2	3	4	(5)	
8. Professionalism	1	(2)	3	4	5	a little better since being separated from Jo
9. Responsiveness to Patient Requests	(1)	2	3	4	5	Too slow, Rough, impatient
10. Patient Satisfaction with nurse care	1	(2)	3	4	5	Most dislike
11. Cooperation with Peers	1	2	(3)	4	5	Night shift work keeps Taylor away from most
12. Cooperation with Supervisor	(1)	2	3	4	5	

OTHER COMMENTS: Mr. Taylor remains uncooperative and sullen. His attitude is very bad. This can't go on much longer.

ACTION: Still watching and waiting. Still giving Taylor verbal warnings. Something must happen soon.

D. Dillon
Supervisor's signature

Alta View Hospital for Women

9660 South 1300 East Sandy, Utah 84070 Phone (801) 572-2600

November 25, 1982

Mr. Vincent Taylor
1635 West Whitlock Avenue
Salt Lake City, Utah 84119

Dear Mr. Taylor:

Pursuant to our investigation of the death of Mrs. Ethel Andover, and upon a general review of your personnel file, Dr. Miller and I agree that the time is past due to terminate your employment with Alta View Hospital. Your termination is effective immediately. Enclosed with this letter is a check representing both your back pay, including the time for administrative leave, and two weeks severance pay.

This action is based upon several grounds, specifically:

1) Negligence in the care of a patient, resulting in her death. In the case of Mrs. Andover, the facts clearly indicate that you failed to respond to her call for assistance in a timely fashion.

2) Lack of cooperation with your supervisor. On a number of occasions, as recorded in your personnel file, you have seen fit to challenge my directions. Despite my repeated warnings to you, you have not improved in this area.

3) Consistently fair-to-poor reports from patients regarding the quality of care which you provided to them. While Alta View does not make a practice of recording specific patient comments in the personnel file, I passed on to you each such comment as I received it. Yet, you did not demonstrate improvement in your interaction with patients.

Under Alta View policy, you have a right to a hearing on this matter. You may call Dr. Miller to request such a hearing.

Sincerely,

Dorothy Dillon

Dorothy Dillon, R.N.
Nursing Director

1983 UTAH MOCK TRIAL COMPETITION - PERFORMANCE RATING AND COMMENTS

Names of Panel Judges:

1)
2)
3)

Date: _____

Plaintiff: _____

Defendant: _____

In deciding which team (attorneys and witnesses) has made the best presentation in the case you are judging, we ask that you use this form to evaluate each team's performance.

For each of the eleven performance standards listed below, please rate each team according to the scale provided. Circle your rating below each question. Space is also provided for you to make comments on each item relative to strengths and areas for improvement (on forms used during the actual competition).

Scale

5 = Superior
4 = Good
3 = Average
2 = Below Average
1 = Poor

ATTORNEYS

1. For the opening statement, the attorney provided a clear and concise description of his/her team's side of the case, and included appropriate facts and issues.

PLAINTIFF (Circle One)	DEFENDANT (Circle One)
1 2 3 4 5	1 2 3 4 5
Comments:	Comments

2. On direct examination, attorneys utilized questions which required straightforward answers and brought out key information for their side of the case.

PLAINTIFF (Circle One)	DEFENDANT (Circle One)
1 2 3 4 5	1 2 3 4 5
Comments:	Comments:

3. On cross-examination, attorneys were able to bring out contradictions in testimony and weaken the other side's case without becoming antagonistic.

PLAINTIFF (Circle One)	DEFENDANT (Circle One)
1 2 3 4 5	1 2 3 4 5
Comments:	Comments:

---

4. Throughout the questioning of witnesses, attorneys utilized properly phrased questions and exhibited a clear understanding of trial procedures.

PLAINTIFF (Circle One)	DEFENDANT (Circle One)
1 2 3 4 5	1 2 3 4 5
Comments:	Comments

---

5. Objections made by attorneys were well reasoned and appropriate.

PLAINTIFF (Circle One)	DEFENDANT (Circle One)
1 2 3 4 5	1 2 3 4 5
Comments:	Comments:

---

6. During the closing statement, the attorney made an organized and well-reasoned presentation summarizing the most important points for his/her team's side of the case and stated applicable law correctly.

PLAINTIFF (Circle One)	DEFENDANT (Circle One)
1 2 3 4 5	1 2 3 4 5
Comments:	Comments:

WITNESSES

7. Witnesses were believable in their characterizations and convincing in their testimony.

PLAINTIFF (Circle One)	DEFENDANT (Circle One)
1 2 3 4 5	1 2 3 4 5
Comments:	Comments:

---

8. Witnesses' answers to questions exhibited a thorough understanding of the case.

PLAINTIFF (Circle One)	DEFENDANT (Circle One)
1 2 3 4 5	1 2 3 4 5
Comments:	Comments:

---

9. Witnesses responded appropriately and clearly to questions posed to them under cross-examination and did not deviate from their affidavits.

PLAINTIFF (Circle One)	DEFENDANT (Circle One)
1 2 3 4 5	1 2 3 4 5
Comments:	Comments:

TEAM

10. Team members were courteous, observed general courtroom decorum, and spoke clearly and distinctly.

PLAINTIFF (Circle One)	DEFENDANT (Circle One)
1 2 3 4 5	1 2 3 4 5
Comments:	Comments:

---

11. Team members kept their presentations within the prescribed time limits, with all team members involved in presentation of the case.

PLAINTIFF (Circle One)	DEFENDANT (Circle One)
1 2 3 4 5	1 2 3 4 5
Comments:	Comments:

TOTAL SCORE FOR TEAMS (Maximum of 55 points)	PLAINTIFF TOTAL	DEFENDANT TOTAL
	_____	_____

Winner on the Merits:_____

SAMPLE DAILY SHEET

MOCK TRIAL COMPETITION

April 6, 1983

Olympus High School (Plaintiff) vs. Ogden High School (Defendant)

Olympus High School

Teacher -
Attorney Coach -
Students Attorneys -
1)
2)
3)
4)

Vincent Taylor -
Harriet Dawson -
Sheila Gray -
Bailiff -

Ogden High School

Teacher -
Attorney Coach -
Student Attorneys
1)
2)
3)
4)

Dorothy Dillon -
Raymond Miller -
Donna Winters -
Bailiff -

Judges

Presiding Judge -
Panel Judges - 1)
2)